

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **INITIAL STATEMENT OF REASONS**

TITLE 13, CALIFORNIA CODE OF REGULATIONS  
DIVISION 2, CHAPTER 4, AMEND ARTICLE 15, SECTION 1090

### **SPECIAL EQUIPMENT – WHEELCHAIR LIFTS CHP-R-06-03**

#### **PURPOSE OF REGULATORY ACTION**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13, California Code of Regulations (13 CCR), related to requirements for wheelchair lifts.

Section 2402 of the California Vehicle Code (VC) authorizes the CHP to adopt and enforce rules and regulations necessary to carry out its duties. Section 34501 VC authorizes the Department to adopt reasonable rules and regulations that, in the judgment of the Department, are designed to promote the safe operation of vehicles described in Section 34500 VC, regarding, but not limited to, equipment, inspection, maintenance, and recordkeeping. The rules and regulations shall not, however, be applicable to school buses, which shall be subject to rules and regulations adopted pursuant to Section 34501.5 VC.

In adopting Section 34501.1 VC, the Legislature further directed all “wheelchair lifts for buses, school buses, youth buses, and general public paratransit vehicles, regardless of capacity” be certified by the manufacturer to the CHP that they meet “the California law and any federal law and the regulations adopted thereto.”

In approximately 1979, the CHP adopted standards to promote the safe installation, performance, and operation of wheelchair lifts for all buses, except school buses which are subject to rules and regulations adopted pursuant to Section 34501.5 VC. These standards are contained in 13 CCR, Sections 1090-1095.

The National Highway Traffic Safety Administration (NHTSA) has now adopted standards into the Federal Motor Vehicle Safety Standards (FMVSS) for all wheelchair lifts intended for use on all motor vehicles, including all buses as well as private personal passenger vehicles. These standards are contained in FMVSS Nos. 403 and 404 (49 CFR 571.403 and 571.404). Under the FMVSS it is unlawful, after the effective date of the regulation, for any party to manufacture for sale any wheelchair lift for any motor vehicle that does not comply with the standard. It is further unlawful for any motor vehicle dealer to sell any new vehicle with a wheelchair lift installed that does not comply with the standard for both the wheelchair lift itself and the installation of the wheelchair lift in the vehicle.

In response to the adopted FMVSS, the CHP amended the standards contained in 13 CCR, Sections 1090-1095 in 2003 to incorporate, by reference, the requirements contained in the FMVSS for wheelchair lifts. The effective date contained in the amendment to 13 CCR coincided with the original effective date of the FMVSS as published in the Federal Register. However, after publishing the effective date in the Federal Register, the NHTSA delayed the actual effective date of the FMVSS.

The CHP now proposes to amend the effective dates of the FMVSS referenced in Section 1090, 13 CCR. The effective dates contained in the proposed amendment coincide with the actual effective dates of the FMVSS

By proposing this regulatory action, the CHP's purpose is to fully harmonize California regulation with federal regulation as required by the Motor Vehicle Safety Act, Chapter 301, Title 49, United States Code (49 USC, §§ 30101 et seq.), and to extend the benefits of the federal regulation to all wheelchair lift users.

In adopting the standards contained in the FMVSS into 13 CCR, the CHP notes that these standards apply to all wheelchair lifts intended to be installed in motor vehicles. Failure to comply with these standards is a violation of federal law. Consequently every manufacturer or installer of wheelchair lifts, whether intended for interstate or intrastate commerce is required to adhere to the federal standards. Therefore adopting these standards into 13 CCR will have no adverse economic impact on any manufacturer or installer of wheelchair lifts, since they are already required to comply with the federal standard by federal law. Adopting these standards into 13 CCR merely gives the CHP and allied agencies authority to enforce these standards.

## **SECTION BY SECTION OVERVIEW**

**1090. Scope** is amended to require that all wheelchair lifts produced on or after April 1, 2005, or installed on or after July 1, 2005, the actual effective dates of the FMVSS, to comply with the provisions contained in the FMVSS.

This section is additionally amended to permit wheelchair lifts produced after April 1, 1980, but produced before April 1, 2005, or installed before July 1, 2005, to comply with either the requirements currently contained in 13 CCR, or with those contained in the FMVSS.

## **STUDIES/RELATED FACTS**

In adopting the standards contained in the FMVSS into 13 CCR, the CHP notes that these standards apply to all vehicle manufacturers. Failure to comply with these standards is already a violation of federal law. Consequently every vehicle manufacturer is required to adhere to the federal standards. Therefore adopting these standards into 13 CCR will have no adverse economic impact on any vehicle manufacturer since they are already required to comply with the federal standard by federal law. Adopting these standards into 13 CCR merely clarifies language therefore fully harmonizing California regulation with federal regulation.

## **LOCAL MANDATE**

These regulations do not impose any new mandate on local agencies or school districts.

## **IMPACT ON BUSINESSES**

The CHP has not identified any significant adverse impact on businesses since these changes simply clarify regulation to allow manufacturers to use the latest federal standards for product development. Any additional costs to businesses are a result of the adoption of the federal standard.

## **ALTERNATIVES**

The CHP has not identified any alternative, including the no action alternative that would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the CHP has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

### *Alternatives Identified and Reviewed*

1. Make no changes to the existing regulations. This alternative was rejected because it fails to provide for the potential safety benefits of the federal standard and may increase costs for manufacturers attempting to comply with both state and federal standards.

## **ECONOMIC IMPACT**

The CHP has determined these regulatory amendments will result in:

- No increased costs for vehicle and wheelchair lift manufacturers. This rulemaking action will simply allow vehicle and wheelchair lift manufacturers to develop products utilizing the latest federal standards.
- No significant compliance cost for persons or businesses directly affected.
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public.
- No impact on the level of employment in the state.
- No adverse impact on the competitiveness of this state to retain businesses, as the majority of other states (especially neighboring) have already adopted these or similar requirements.

